

Appl. No. 09/931,342
Amdt. dated August 19, 2004
Reply to Office Action of May 19, 2004

REMARKS

Claims 1-24 are pending in the above-identified application. Claims 1-24 were rejected under 35 U.S.C. §102(b) as being anticipated by Stoev et al. (Stoev). Claims 1 through 24 have been amended to further clarify the subject matter therein, and Applicant respectfully requests that the above referenced rejections be reconsidered and withdrawn.

As a threshold matter, Applicant respectfully traverses the Examiner's decision to issue a Final Office Action in view of Stoev. As explained below, Stoev is directed to an apparatus and method fundamentally different from that of the invention. Applicant submits that Stoev does not read on the claims as originally filed, the claims as previously amended, or the present claims. Applicant submits that the citation of Stoev is no more relevant to the claims as amended than to those originally filed. While Applicant is pleased to explain the differences between Stoev and the present invention, Applicant does not believe that the citation of Stoev was necessitated by Applicant's amendment or that issuance of a Final Office Action in view of this reference is proper.

Regarding the teachings of Stoev, this reference is directed to a free solution electrophoresis membrane trapping assay (FSEMTA) apparatus and method to classify extremely small electrically charged particles by size, molecular weight, length or shape. Stoev, column 4, lines 17 -24. To accomplish this classification, the closed apparatus uses a series of membranes arranged in descending pore size with the membrane having the largest pore size being closest to the sample. Voltage is started out at a high level and periodically stepwise reduced over the trapping process. Col. 4, lines 44 – 63. At the end of the process in Stoev, the membranes are removed from the apparatus and analyzed to determine the quantity of particles trapped on each membrane, thereby

Appl. No. 09/931,342
Amdt. dated August 19, 2004
Reply to Office Action of May 19, 2004

classifying the particles by size. Column 5. Thus, for example, Stoev refers to "particles on the membrane" (Col. 5, line 4), "particles on each membrane" (Col. 5, line 5-6) and "that "particles can be removed from the membranes" (Col. 5, line 7).

Stoev does not separate and remove pathogens from biological fluids in accordance with the present invention. Stoev teaches the classification of molecules by size by trapping them on one or more membranes. In contrast to the present invention, Stoev does not teach a method of separating active molecules from pathogens from liquids and recovering the desired molecules in liquid form.

To clearly point out at least some of the differences between Stoev and the present invention, claims 1 – 24 have been further amended consistent with the above. The amended claims make clear that the separation is membrane based and that the desired molecules are recovered in liquid form (not from a membrane). Stoev does not teach or suggest recovery or removal of particles in liquid form from the apparatus. The amended claims are thus both novel and non-obvious in view of Stoev or the other art of record.

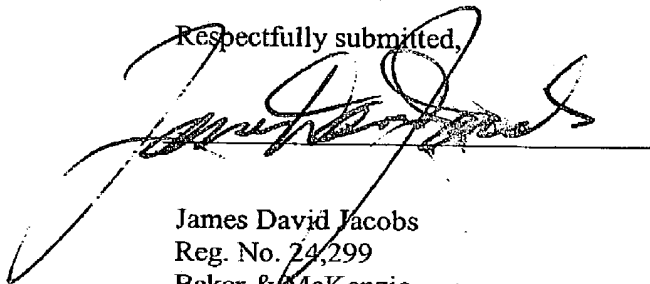
CONCLUSION

In view of the foregoing amendments and arguments, Applicant respectfully submits that the claims are in condition for allowance. If the Examiner has any questions regarding this Response to Office Action or the Application in general, the Examiner is invited to contact the Applicant's attorney at the below listed telephone number. If the Commissioner determines that any fees are due, please charge our Deposit Account No. 02-0393.

Appl. No. 09/931,342
Amdt. dated August 19, 2004
Reply to Office Action of May 19, 2004

Date: August 19, 2004

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'James David Jacobs', is written over a horizontal line.

James David Jacobs
Reg. No. 24,299
Baker & McKenzie
805 Third Avenue
New York, New York 10022
Telephone (212) 751-5700
Facsimile (212) 759-9133